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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,153	06/14/2006	Ludovic Petit	Q92397	8370
23373 7590 09/11/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER JACYNA, J CASIMER				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
09/11/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,153

Applicant(s)

PETIT, LUDOVIC

Examiner

J. Casimer Jacyna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 01/04/09

1. The disclosure is objected to because of the following informalities: The specification lacks the headings noted in MPEP 608.01(a). Also, page 5 and page 6, lines 1-27, identify the valve to be element 20 with a separate and unnumbered valve stem. However, starting on page 6, line 28, there is duplicate use of numeral 20 as the valve stem. Note that the valve stem is not numbered in the drawings.

Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1-6, the valve, the valve stem and the actuator are all identified with the numeral (20). Since the valve and the valve stem are clearly identified and claimed as separate and distinct elements on lines 1-3 of claim 1, it is confusing to refer to both separate and distinctly claimed elements with the same numeral 20. It is also not certain if the actuator 20 is referring to the valve or the valve stem, or a new and entirely different element. Additionally, there is no antecedent basis for "said actuator" on line 11 of claim 1. Regarding claim 2, the phrase "such as" (line 2) renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). On line 2 of claim 4, it is not certain as to what is the meaning of "is at in abutment". It is not certain where the abutment is located with respect to the other claimed elements, how the control element is either at or in the abutment and there is no clear antecedent for the

abutment. In regard to claim 3, it is not certain if line 2 if claiming that the control element is in abutment with the valve stem, or if the phrase "valve stem in the open position" is even related to the control element in abutment. It is not clear what abuts the control element, where the abutment is or for what purpose the control element is abutted.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson et al. 6,302,297. Richardson discloses a dispensing device including a reservoir 50, a dispensing valve 55, a valve stem 54, a dispensing head 14, a dispensing orifice 41, and a metering system that includes an operating element 16, 10, a spring (claim 2) 40 (note that claim 2 does not define the spring to contact the valve stem or to have any kind of physical relationship with the valve stem but only defines the spring to have a stiffness greater than the valve stem actuating force), a control element 24, 28-30, and a metering element that includes an entry valve 44 and an exit valve 46 (claim 6) and a metering position and a dispensing position (claim 5) as disclosed on column 4, lines 40-47, with the chamber 30 remaining filled until 32 is engaged by a tool for dispensing.

6. Claims 1, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Suck et al. 4,915,262. Suck discloses a dispensing device including a reservoir 1, a

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dispensing valve 10, a valve stem 5, a dispensing head having a dispensing orifice 21, and a metering system that includes an operating element 11, a control element 13, 14, and a metering element 12 that includes an entry and exit valve (claim 11) as is the node that extends within conduit 15 as shown in figure 1 with the separate elements snap fitted at 13 and 19 in figure 1 (claim 10). 2 44 and an exit valve 46 (claim 6) and a metering position and a dispensing position (claim 5) as disclosed on column 4, lines 40-47, with the chamber 30 remaining filled until 32 is engaged by a tool for dispensing.

7. Claims 1-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward 3,236,424. Ward discloses a dispensing device including a reservoir 3, a dispensing valve and valve stem 6, a dispensing head 50, a dispensing orifice 58, and a metering system that includes an operating element 57, a spring (claim 2) 54, a control element 51, 55, and a metering element 53.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754